

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X	
Cory Mitchell,	:
	:
Plaintiff	:
-against-	:
	:
City of New York, New York City Police Department,	:
New York City Police Officer Matthew Escudero, Shield	:
26192 of the 47 Police Precinct and New York City Police	:
Officers John Doe,	:
	:
Defendants.	:
-----X	

Plaintiff, by and through his attorney, JASON A. STEINBERGER, Esq, for his complaint,
alleges upon information and belief as follows:

STATEMENT OF FACTS

1. That at all times hereinafter mentioned, Plaintiff Cory Mitchell, (hereinafter referred to as “MITCHELL”) is resident of Bronx County, State of New York.
2. That at all times hereinafter mentioned, New York City Police Officer Matthew Escudero, shield 26192, of the 47 police precinct, (hereinafter referred to as “ESCUDERO”) were employed by the New York City Police Department.
3. That at all times hereinafter mentioned, New York City Police Officers John Doe, the officers involved in the arrest of MITCHELL, (hereinafter referred to as “DOES”) were employed by the New York City Police Department.

4. That at all times hereinafter mentioned, Defendant City of New York, is a municipal corporation organized and existing under the laws of the State of New York, with a principal place of business located at 1 Centre Street, County of New York State of New York.
5. That at all times hereinafter mentioned, Defendant New York City Police Department, is an agency created and maintained by the above municipal government.
6. On or about May 15, 2014 notice required by Municipal Law 50-E was given to City of New York, by personal service. Said notice set forth the facts underlying Plaintiff's claim against the City of New York, and its agents and employees. To date, no answer has been received by Plaintiff and no compensation has been offered by the City of New York.
7. On or about May 29, 2014 a hearing required by Municipal Law 50-H was conducted. At said hearing, Plaintiff testified and set forth the facts underlying Plaintiff's claim against the City of New York and its agents and employees. To date, no answer has been received by Plaintiff and no compensation has been offered by the City of New York in response to this claim, and more than thirty (30) days have elapsed.
8. On or about March 19, 2015, the Honorable Mitchell Danziger, granted Plaintiff's Order to Show Cause deeming the Notice of Claim, served on May 29, 2014, timely.
9. That on or about February 8, 2014 at approximately 3:45AM in the vicinity of 3855 Bronxwood Avenue, Bronx NY, Mystique Lounge, Plaintiff was working as Disc Jockey.
10. That at approximately 3:40AM there was a fight between numerous individuals at the Mystique Lounge.
11. That at approximately 3:45AM ESCUDERO and DOES arrived and that numerous people inside the club rushed towards the front entrance.
12. That ESCUDERO and DOES handcuffed and arrested Plaintiff.

13. That at no time did Plaintiff engage in any illegal conduct.
14. That at no time did Plaintiff possess anything of an illegal nature.
15. That at no time did Plaintiff possess a handgun.
16. That after Plaintiff was arrested he was transported to the 47 police precinct.
17. That when Plaintiff was transported to the 47 police precinct he was placed in a cell with other males for several hours.
18. That after being held in a cell inside of the police precinct for several hours, Plaintiff was transferred to Bronx County Central Booking located at 215 East 161 Street, Bronx, New York.
19. That on February 9, 2014 Plaintiff was arraigned in Bronx County Criminal Court on docket 2014BX007266 charging him with Criminal Possession of a Weapon in the Second Degree and related charges.
20. That at the time of the arraignment, Plaintiff was held in on bail.
21. That Plaintiff was incarcerated from February 9, 2014 until February 10, 2014.
22. That on and between February 9, 2014 and May 16, 2014 Plaintiff made numerous court appearances before his case was dismissed by the Grand Jury.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS

23. That Defendants acted with actual malice toward Plaintiff and with willful and wanton indifference to and deliberate disregard for the statutory and constitutional rights of the Plaintiff.
24. That the actions of the Defendants constituted unreasonable deprivation of liberty without due process of law.

25. That as a result of the actions by Defendants, Plaintiff was traumatized and fears for her physical safety when she sees and encounter members of the New York City Police Department from the day of his arrest and onward.

26. That as a result of the Defendants' actions, Plaintiff has been unable to sleep.

27. That as a result of Defendants' actions, Plaintiff missed several days of work.

28. That as a result of the Defendants' actions Plaintiff sustained damage to his person in the sum within the jurisdiction of the Supreme Court and in excess of all inferior courts.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS

29. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs 1 through 28, as if more fully stated herein at length.

30. The intentional verbal abuse, false arrest and false imprisonment by Defendants violated the rights of the Plaintiff as guaranteed by the Fourth, Fifth and Eighth Amendments to the Unites States Constitution, as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable.

31. Defendants having no lawful authority to arrest Plaintiff, did, nevertheless, unlawfully arrest Plaintiff with actual malice toward her and with willful and wanton indifference to and deliberate disregard for her constitutional rights. Thus Plaintiff is entitled to both compensatory and exemplary damages.

AS AND FOR A THIRD CAUSE OF ACTION AS AGAINST DEFENDANTS

32. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs 1 through 31, as if more fully stated herein at length.

33. Defendants conspired to violate Plaintiff's statutory civil rights in violation of 42 U.S.C. sec.1983, et al as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable. Thus Plaintiff is entitled to both compensatory and exemplary damages, as well as attorney's fees.

AS AND FOR A FOURTH CAUSE OF ACTION AS AGAINST DEFENDANTS

34. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs 1 through 33, as if more fully stated herein at length.

35. Plaintiff was verbally abused, falsely arrested and falsely imprisoned by Defendants in a manner that was extreme, outrageous and unjustified and caused Plaintiff to suffer physical and severe emotional distress for which the Defendants are individually liable. The verbal abuse, false arrest and false imprisonment on and of Plaintiff by Defendants were unjustified and done with actual malice and wanton indifference to and deliberate disregard for human life and the rights of Plaintiff. Plaintiff is thus entitled to compensatory and exemplary damages.

**AS AND FOR A FIFTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND
NEW YORK CITY POLICE DEPARTMENT**

36. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs 1 through 35, as if more fully stated herein at length.

37. At all times pertinent hereto, the ESCUDERO and DOES were acting within the scope of their employment as officers of the New York City Police Department and City of New York.

38. The City of New York and New York City Police Department are each liable for compensatory damages under the doctrine of respondeat superior for the intentional torts that ESCUDERO and DOES were committed within the scope of their employment.

**AS AND FOR A SIXTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND
NEW YORK CITY POLICE DEPARTMENT**

39. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs 1 through 38, as if more fully stated herein at length.

40. The City of New York and New York City Police Department's failure to provide adequate training and supervision to ESCUDERO and DOES constitutes a willful and wanton indifference and deliberate disregard for human life and the rights of private citizens, including Plaintiff. Plaintiff is thus entitled to compensatory exemplary damages.

AS AND FOR A SEVENTH CAUSE OF ACTION AS AGAINST DEFENDANTS

41. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs 1 through 40, as if more fully stated herein at length.

42. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted and tolerated the unreasonable detention of Plaintiff.

43. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted the wanton indifference to and deliberate disregard for the statutory and constitutional rights of Plaintiff.

WHEREFORE, Plaintiffs each demand judgment against the Defendants as follows:

On the first cause of action, a sum within the jurisdiction of this Court and in excess of all inferior courts;

On the second cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts, together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

On the third cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

On the fourth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the wanton and willful nature of the Defendants actions;

On the fifth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts

On the sixth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts.

On the seventh cause of action, a sum within the jurisdiction of this Court and in excess of all inferior courts.

Law Offices of Jason A. Steinberger, LLC

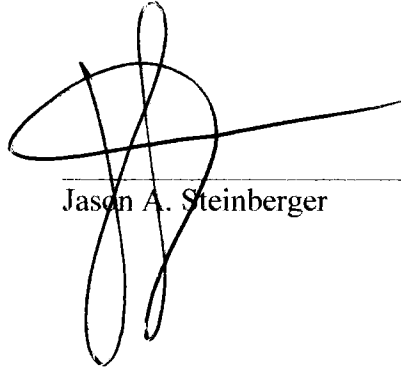
A handwritten signature in black ink, consisting of a large, stylized 'J' and 'S' intertwined, with a horizontal line extending to the right.

Jason A. Steinberger, Esq.
Attorney for Plaintiff
505 Eighth Avenue
Suite 700
New York, NY 10018
(646) 256-1007

STATE OF NEW YORK: COUNTY OF NEW YORK

The undersigned, an attorney admitted to practice in the State of New York, under penalties of perjury, affirms the following to be true: Affirmant has read the foregoing Complaint and the contents thereof; the same is true to affirmant's own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters affirmant believes it to be true; and the reason this verification is made by affirmant and not by the plaintiff is because the plaintiff is not within the county in which your affirmant maintains his principal office. The grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are communications with the plaintiff, review of records and documents within affirmant's possession.

Affirmed: April 22, 2015



Jason A. Steinberger

Index Number:
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CORY MITCHELL,

Plaintiff

-against-

CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT POLICE, NEW
YORK CITY POLICE OFFICER MATTHEW ESCUDERO, SHIELD 26192 OF THE 47
POLICE PRECINCT AND NEW YORK CITY POLICE OFFICERS JOHN DOE,

Defendant.

SUMMONS AND COMPLAINT

LAW OFFICES OF JASON A. STEINBERGER, LLC
505 Eighth Avenue
Suite 701
New York, NY 10018

To:
Attorney (s) for Defendant(s)

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

☐ that the within is a (certified) true copy of
☐ entered in the office of the clerk of the within named Court on

**NOTICE
OF ENTRY**

☐ that an Order of which the within is a true copy will be presented for settlement to the Hon.
NOTICE OF once of the Judges of the within named Court,
SETTLEMENT at

on

200 , at m.

Dated:

JASON A. STEINBERGER, ESQ.
505 Eighth Avenue, Suite 701
New York, NY 10018

To:
Attorney(s) for